

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CHROMAR SYSTEMS, INC., ET AL.,

Plaintiffs,

v.

ALCATEL-LUCENT S.A., ET AL.,

Defendants.

6:15-CV-163-JDL

LEAD CASE

PATENT CASE

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

In accordance with P.R. 4-3, the Parties submit this Joint Claim Construction and Prehearing statement.

I. P.R. 4-3(a) – Agreed Constructions

At this point, the Parties have not reached agreement on the construction of terms that were identified in their respective P.R. 4-1 disclosures. The Parties will continue to work in an attempt to narrow the terms requiring construction.

II. P.R. 4-3(b) - Proposed Constructions for Disputed Terms and Supporting Evidence

Plaintiffs' and Defendants' proposed constructions for disputed claim terms, and identification of intrinsic and extrinsic evidence as required by P.R. 4-3(b) are set forth in Exhibit A and Exhibit B, respectively.

III. P.R. 4-3(c) – Anticipated Length for Claim Construction Hearing

The Parties anticipate the Claim Construction Hearing to last no more than 3 hours, with each side allowed 90 minutes to present their arguments.

IV. P.R. 4-3(d) – Witnesses the Parties Propose to Call at Claim Construction Hearing

The Parties do not intend to call any witnesses at the Claim Construction Hearing.

V. P.R. 4-3(e) – Other Issues

Defendants’ Position:

Certain terms of the ’012 patent have previously construed by the Court. *See, e.g.*, Case No. 6:13-cv-00880-JDL, Dkt. Nos. 92 & 99. Defendants understood the parties to be in agreement that each would like to preserve its right to appeal any of the prior construed terms without burdening the Court with requests in these cases to construe terms the Court has already considered. Defendants propose that the parties jointly submit an agreed motion to the Court requesting an order that incorporates by reference into the record the prior briefing and orders on claim construction for the ’012 patent. Defendants reserve all rights to appeal the constructions of the prior-construed terms.

Plaintiffs’ Position:

Plaintiffs disagree that any agreement was reached regarding the claim-construction rulings in the prior cases. On the contrary, in their P.R. 4-1 disclosures in this case, Defendants stated that they “may rely on the Court’s constructions and analysis with respect to” the terms construed in the prior case. Thus, Defendants’ P.R. 4-1 position was that they agreed with at least certain parts/aspects of the Court’s constructions or analysis of the terms. Later, Defendants raised the issue of preserving the right to appeal the Court’s constructions in the now-dismissed prior cases. Counsel for Plaintiffs indicated that some agreement might be achieved, but no further discussions were had, and certainly, no agreement was reached. Notably, however, there was no discussion whatsoever about the incorporation by reference of any prior briefing on claim construction, and it would be wholly inappropriate to allow Defendants to rely on any such briefing or evidence submitted in that case for purposes of claim construction here. Plaintiffs

remain open to reaching a narrowly tailored agreement regarding the Court's prior constructions, but to date, Defendants have not provided any draft agreement for Plaintiffs' consideration.

Respectfully submitted,

/s/ Richard L. Wynne, Jr.
Richard W. Hoffmann
hoffmann@reising.com

REISING ETHINGTON PC
755 West Big Beaver Road, Suite 1850
Troy, Michigan 48084
248.689.3500
248.689.4071 (facsimile)

Justin S. Cohen
Texas Bar No. 24078356
justin.cohen@tklaw.com
Richard L. Wynne, Jr.
Texas Bar No. 24003214
richard.wynne@tklaw.com

THOMPSON & KNIGHT LLP
1722 Routh Street, Suite 1500
Dallas, Texas 75201
214.969.1700
214.969.1751 (facsimile)

ATTORNEYS FOR PLAINTIFFS CHRIMAR
SYSTEMS, INC. D/B/A CMS TECHNOLOGY and
CHRIMAR HOLDING COMPANY, LLC

Respectfully submitted,

/s/ David H. Bluestone
Brent A. Hawkins
David H. Bluestone
McDERMOTT WILL & EMERY LLP
227 West Monroe Street
Chicago, IL 60606-5096
Telephone: (312) 372-2000
Facsimile: (312) 984-7700
Email: bhawkins@mwe.com
Email: dbluestone@mwe.com

Michael E. Jones
State Bar No. 10929400
mikejones@potterminton.com
Allen Gardner
State Bar No. 24043679
allengardner@potterminton.com
POTTER MINTON, P.C.
110 North College, Suite 500
Tyler, Texas 75702
Telephone: (903) 597-8311
Facsimile: (903) 593-0846

Attorneys for Defendant AMX

/s/ Danny L. Williams

Danny L. Williams—LEAD ATTORNEY

State Bar No. 21518050

Email: danny@wmalaw.com

Chris N. Cravey

State Bar No. 24034398

Email: cravey@wmalaw.com

Matthew R. Rodgers

State Bar No. 24041802

Email: mrodgers@wmalaw.com

Leisa Talbert Peschel

State Bar No. 24060414

Email: lpeschel@wmalaw.com

WILLIAMS MORGAN, P.C.

10333 Richmond, Suite 1100

Houston, Texas 77042

Telephone: (713) 934-7000

Facsimile: (713) 934-7011

*Attorneys for Defendants-Counterclaimants
Alcatel-Lucent USA Inc., Alcatel-Lucent
Holdings, Inc., & ALE USA INC.*

Michael E. Jones

State Bar No. 10929400

Email: mikejones@potterminton.com

POTTER MINTON, P.C.

110 North College, Suite 500

Tyler, Texas 75702

Telephone: (903) 597-8311

Facsimile: (903) 593-0846

*Attorneys for Defendants-Counterclaimants
Alcatel-Lucent USA Inc. & Alcatel-Lucent
Holdings, Inc.*

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served via email on all counsel of record on December 17, 2015.

/s/ Richard L. Wynne, Jr.
Richard L. Wynne, Jr.